

Abstract of the Disclosure showing the changes from the original title is shown in **Attachment F** provided herewith.

REMARKS

Considering the matters raised in the Office Action in the same order as raised, applicant has been "reminded of the proper language and format for the Abstract of the Disclosure" but no specific criticism has been raised (i.e., the paragraphs describing the proper content of the Abstract appear to simply be stock paragraphs). An additional sentence has been added to the Abstract to further describe the device disclosed. However, if the Examiner intends to maintain the objection to the Abstract, it is respectfully requested that the reasons for this objection be made clear.

The title of the invention has been objected to as being "not descriptive." Although it is believe that the original title is, in fact, descriptive, a new title has been provided which is "clearly indicative of the invention to which the claims are directed."

The drawings have been objected to under 35 USC 1.83(a). This objection is respectfully traversed. The Examiner correctly states that the drawings "must show every feature of the invention specified in the claims." However, it is respectfully submitted that the features that the Examiner contends are not illustrated are either (1) illustrated in the present drawings; or (2) not required to be illustrated. The only exception is the "top edge three integral flanges" and this recitation, as explained below, is simply a typographical error and should have read "top edge and three integral flanges" (emphasis added).

The features in category (1) are "first taper," "second taper," "first angled portion," "second angled portion," "common edge," "slanted end portions," "tapered vessel," "angled side wall," "V-shaped terminal edge," "top edge," "V-shaped channel," and "three integral flanges" (to the extent that the Examiner considers the latter to be non-illustrated). It is respectfully submitted that each of the features in question is clearly illustrated in the drawings. For example, the drawings at Figures 1 and 2 clearly indicate that the first and second tapered portions 26 and 28 have a "first taper" and a "second taper." Further, Figure 3 illustrates that the legs each have "a first angled portion" and "a second angled portion" joined "along a common edge." The Examiner

appears to be requiring that each of the features in question be specifically labeled and referred to by name in the specification. This is not what is required by 37 CFR 1.83(a). All of the features in category 1 above are clearly illustrated and thus this rejection should be withdrawn.

Turning to category (2), with respect to the recitations "sprinkler" and "supported [sic] ground surface," there is no requirement that these inferential recitations be illustrated. These recitations are not "features" of the invention as that word is understood, but rather are inferential recitations involving the function of the invention. Specifically, claim 1 recites that the device is "for use with a water sprinkler" while claim 17 recites that the legs terminate "in a pointed end portion for enabling the legs to be stuck into a supporting ground surface." Both of these are clearly inferential recitations and there is no need to illustrate either the "sprinkler" or "supporting ground surface." Accordingly, the Examiner may properly withdraw this objection to the drawings.

Claims 11-17 have been rejected under 35 USC 112, second paragraph, as being "indefinite." It is respectfully submitted that some of these rejections raised are well taken while others are not. For the objections that are well taken, the claims have been amended accordingly.

Considering the specific rejections, the Examiner has objected to the phrase "stacking of said device on a further said device" on the basis that "the statement [is] unclear and ambiguous, due to only one device being previously mentioned." The language in question is intended to convey the thought that the device recited in the claim is stackable on a further said device, i.e., stackable on a further device as set forth in the claims. It is believed that the language in question is appropriate and definite, but if the Examiner can suggest language that would convey the same thought, applicant would certainly consider such language.

The Examiner has also objected to the recitation "said flanges of the vessel" because there is "no previously mention of flanges of the vessel." It is respectfully submitted that this language is proper since the claims recite that the vessel comprises flanges but the phrase "of the vessel" has been deleted in order to expedite the prosecution.

With respect to claims 13-16, the Examiner is, of course, correct here and the clerical error wherein "apparatus" was used rather than --device-- has been corrected.

Finally, with respect to claim 17, the Examiner is again correct. As indicated above, a word was left out in the recitation in question and the recitation should read "a top edge and three integral flanges equally spaced around the top edge" (emphasis added). With the addition of the word "and," the phrase should now be clear.

Claims 1-5, 7, and 11 have been rejected under 35 USC 102(b) as being "anticipated by U.S. Patent No. 5,343,732 to Glynn." This rejection is respectfully traversed.

The Glynn patent discloses an apparatus for determining the accuracy of the amount of liquid dispensed by a dispenser such as a gasoline pump at a filling station. The apparatus includes a vessel 2 and a hollow tubular member 5 which can be inserted into the vessel 2 so as to displace the liquid therein upwardly. Tubular member 5 has a liquid inlet hole 10 in a side wall thereof such that, upon insertion of member 5 in the vessel 2, upwardly displaced liquid can pass through the hole 10 into the tubular member 5. The liquid level within the tubular member can be read against a scale tube 15 which is housed in the tubular member 5, after the tubular member is withdrawn. This reading is an indication of the accuracy of the registered volume of fluid dispensed by the, e.g., gasoline pump.

It is evident that the apparatus disclosed in the Glynn patent has little or nothing to do with the measuring cup device of the present invention. The device of the Glynn reference is not used with a water sprinkler in evaluating sprinkler performance and, moreover, the specific features of the present invention are not disclosed therein. In the latter regard, contrary to the contention of the Examiner, the apparatus of the Glynn patent does not disclose a measuring cup including measuring markings along at least one side thereof nor legs including pointed end portions for enabling the legs to be stuck in the ground to support the device. As indicated above, the measuring markings 15 are provided on "an inner closed tubular member 15 which is fixed in position relative to the tube 5" and not along at least one side of a cup. Specifically, there are no measurement markings on what the Examiner is reading as a cup, i.e., the "measuring cup 21, 2." Further, the support legs 27 simply provide for resting of the vessel 2 on a

flat surface and do not include pointed end portions for enabling the legs to be stuck in the ground to support the device 1 as contended by the Examiner. As indicated hereinbefore, the device of the present invention is designed for a much different purpose than that of the reference, and it is respectfully submitted that the two distinguishing features set forth above reflect this difference.

With respect to the dependent claims, these claims are patentable for at least the reasons set forth above. Moreover, at least claim 5 further distinguishes over the Glynn patent. In this regard, it is respectfully submitted that the Examiner is incorrect in stating that "said cup 21, 2 has measurement markings 15 along two sides thereof (Figs. 4B, 4C)." As is evident from Figure 4A, Figures 4B and 4C merely show different parts of the same measuring scale. Moreover, as pointed out above, the measuring scale is provided on closed tube 5 within tubular member 15 and not on the sides of vessel 2.

It is respectfully submitted that dependent claim 11 is also separately patentable. The Examiner states that the cup and legs of the reference "are of a shape permitting stacking of said device 1 on a further said device 1 (col. 2 lines 54-55)." However, the passage in question merely states that "the vessel 2 may be of any desired shape and configuration." The reference mentions nothing whatsoever about staking of the vessel on another vessel, and it is quite clear that it would be impossible to stack the vessel shown in the Glynn patent on another such vessel.

Claims 6, 8-10 and 12-17 have been rejected under 35 USC 103(a) as being "unpatentable over Glynn in view of Villelli." This rejection is respectfully traversed.

As has already been indicated above, applicant respectfully disagrees with a number of the contentions of the Examiner with regard to the teachings of the Glynn patent. For example, the patent does not disclose a stackable shape nor measurement markings as claimed.

Secondly, it is respectfully submitted that the combination proposed by the Examiner is clearly the improper lack of hindsight. The Villelli patent is concerned with an apparatus and method for supporting and protecting sprinkle system risers and pipes from accidental or vandalistic damage. The apparatus is a fork-shaped element which is pounded down in straddling relationship around each riser of the associated pipe joint. It is respectfully submitted that there would simply be no reason at all to combine

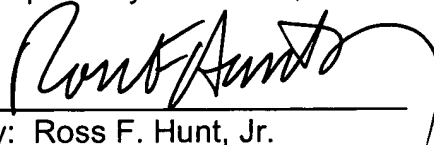
these teachings of the Villelli patent with those of the Glynn patent relating to an apparatus for determining the accuracy of the volume of liquid dispensed from a gasoline pump. Further, the Villelli patent does not teach the specific apparatus claimed in the claims with respect to the claimed flanges and the claimed supporting legs. In this regard, "flanges" 32 and 33 of the Villelli patent are simply enforcement beads as is stated in the patent. Further, the legs themselves are not of a V-shape configuration but rather are essentially flat as indicated in Figure 6.

In summary regarding this rejection, it is respectfully submitted that it would not be obvious to combine the teachings of the two references in question and thus that the rejection based on these references must fail because of this very fundamental reason. Further, it is respectfully submitted that if the references were somehow combined, the resultant hybrid combination would not be that set forth in the claims in question.

Finally, it is noted that claims 18-20 have been added which provide that the claimed cup has an open top and is of greatest cross-sectional area at this open top. This again is clearly not true of the device of the Glynn patent which is not concerned with catching water from a sprinkler and has a narrow opening at the top thereof.

Allowance of the application in its present form is respectfully solicited.

Respectfully submitted,



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ATTACHMENT B

Marked Up Replacement Title

A marked up copy of the replaced title is provided below.

**SPRINKLER PERFORMANCE EVALUATION CATCH CUP
INCLUDING GROUND PIERCING SUPPORT LEGS**

ATTACHMENT D

Marked Up Replacement Claims

Following herewith is a marked up copy of each rewritten claim together with all other pending claims.

1. A measuring cup device for use with a water sprinkler in evaluating sprinkler performance, said device comprising:
a measuring cup including measurement markings along at least one side thereof and a closed bottom end; and
a plurality of legs, formed integrally with said cup and extending beyond the bottom end of said cup, for supporting the device in an upright position in the ground, said legs including pointed end portions for enabling the legs to be stuck into the ground to support the device.
2. The device of claim 1 wherein said cup is of a tapered shape having a smaller end terminating at said closed bottom.
3. The device of claim 1 wherein said cup comprises a first tapered portion having a first taper and a second tapered portion having a second, different taper.
4. The device of claim 3 wherein said first and second portions are both annular in cross section.
5. The device of claim 1 wherein said cup has measurement markings along two sides thereof.
6. The device of claim 5 wherein the measurement markings comprise inches and centimeters, respectively.
7. The device of claim 1 wherein said cup includes an annular edge defining an opening at an end of said cup opposite to said closed end.

8. The device of claim 7 wherein said cup includes a plurality of flanges extending outwardly from said annular edge at equally spaced locations therearound and wherein said legs are formed integrally with said flanges.

9. The device of claim 8 wherein said legs are of a V-shaped confirmation in cross section and comprise first and second angled portions joined along a common edge.

10. The device of claim 9 wherein said angled portions of each of said legs terminate in slanted end portions forming the pointed end portion of the corresponding leg.

11. The device of claim 1 wherein said cup and said legs are of a shape permitting stacking of said device on a further said device.

12. (AMENDED) A stackable device for measuring sprinkler performance, said device comprising:

a tapered vessel having an angled side wall including measurement markings therealong, an open top, a plurality of flanges extending outwardly from said top, and a closed bottom, and a plurality of legs formed integrally with said vessel and extending downwardly from said flanges ~~of the vessel~~ substantially beyond said bottom, for supporting the device, said vessel and said legs being of such a shape that said device can be stacked on a further said device.

13. (AMENDED) The ~~apparatus~~ device of claim 12 wherein said legs have a v-shaped cross section.

14. (AMENDED) The ~~apparatus~~ device of claim 12 wherein said open top is defined by an annular edge portion of said vessel.

15. (AMENDED) The ~~apparatus~~ device of claim 12 wherein said device is composed of plastic.

16. (AMENDED) The ~~apparatus~~device of claim 12 wherein said measurement markings comprise first and second sets of measurement markings extending along different sides of said tapered vessel for measurement of vessel contents in inches and centimeters.

17. (AMENDED) A stackable device for evaluating the performance of a water sprinkler, said device comprising:

a central tapered cup catching water from a sprinkler and including depth measurement markings along at least one side thereof for measuring the depth of the water caught in said cup;

said cup including a top edge and three integral flanges equally spaced around the top edge and expanding radially outwardly therefrom, said flanges defining a V-shaped terminal edge; and

three legs each formed integrally with one of said flanges and extending downwardly from the corresponding terminal edge so as to define a V-shaped channel, said legs terminating in a pointed end portion for enabling the legs to be stuck into a supporting ground surface.

18. (NEW) A device as claimed in claim 1 wherein said cup has an open top and is of greatest cross-sectional area at said open top.

19. (NEW) A device as claimed in claim 12 wherein said cup has an open top and is of greatest cross-sectional area at said open top.

20. (NEW) A device as claimed in claim 17 wherein said cup has an open top and is of greatest cross-sectional area at said open top.

ATTACHMENT F

Marked Up Abstract of the Disclosure

A marked up copy of the Abstract of the Disclosure is provided below.

ABSTRACT OF THE DISCLOSURE

A sprinkler measuring cup device is provided for use in evaluating sprinkler performance. The device is of a one-piece construction and allows measurement of depth of water applied. The measuring device is shaped to allow a plurality of devices to be stacked one on top of the other. The device includes a central cup and peripheral ground piercing legs.